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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

JOHN THOMAS CHRISTIANA, Plaintiff and Appellant, v. CITY OF LAGUNA BEACH et al., Defendants and Respondents.	G056944 (Super. Ct. No. 30-2018-00975317) O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Sheila Fell, Judge. Affirmed.

John Thomas Christiana, in pro. per., for Plaintiff and Appellant.

Rutan & Tucker, Philip D. Kohn, Ajit Singh Thind and Emily Webb for Defendants and Respondents.

* * *

John Thomas Christiana sued the City of Laguna Beach (the City) and police officer Jason Farris (collectively defendants) for trespass to chattels and various other torts. The alleged causes of action arose from a number of contacts where Farris repeatedly attempted to talk to Christiana and his family members about Christiana's well-being and mental health. Defendants demurred, arguing they were statutorily immune from liability. After briefing and argument, the trial court agreed and sustained the demurrer without leave to amend, finding that Christiana's claims were barred by Government Code sections 821.6 and 815.2.[1]

On appeal, Christiana argues immunity was improperly applied here. We disagree, concluding the allegations of the complaint were well within the scope of the immunity statutes. Because this was correctly decided as a matter of law, we find no reasonable possibility Christiana could amend his complaint to overcome this issue. Accordingly, we conclude the demurrer was properly sustained without leave to amend and therefore affirm the judgment.

I

FACTS

Christiana's History

In 2008, defendant was charged with unlawfully taking a vehicle, receipt of stolen property, possession of a concealed firearm, and various other counts. (*People v. Christiana* (2010) 190 Cal.App.4th 1040, 1043.) During his trial, his counsel expressed doubts as to his competency, which led to suspension of the proceedings and the appointments of two experts to evaluate Christiana's condition. Defendant also retained his own expert. (*Id.* at p. 1044.) All three experts stated in their reports that he suffered from "a serious mental illness," although there was some disagreement as to the precise

[1] Subsequent statutory references are to the Government Code unless otherwise indicated.

diagnosis. (*Ibid.*) "Defendant told all three experts he had had a bicycle accident in 1979 that resulted in a head injury and loss of consciousness, and while he was in the hospital, the government had inserted a microchip in his head, which was used to control him." (*Ibid.*) Two of the three experts, including the defense expert, opined that he "was incompetent to stand trial because his ability to assist counsel in conducting his defense in a rational manner was impaired." (*Ibid.*) After other proceedings, based on a doctor's recommendation, the trial court ordered defendant transferred to a state hospital, where he refused to take antipsychotic medication. The court eventually ordered the medications administered involuntarily. (*Id.* at pp. 1044-1045.) On appeal from the commitment and medication orders, the Court of Appeal upheld the order of commitment but reversed the order authorizing the involuntary administration of psychotropic medication. (*Id.* at p. 1053.) Despite Christiana's assertions that he was "mistakenly" committed to the state hospital, there is simply nothing in the record to support that contention.

In 2017, Christiana filed a federal complaint for injunctive and declaratory relief against myriad defendants, including the federal government, the City, the FBI, James Comey, the NSA, the Director of National Intelligence, the Federal Communications Commission, President Donald Trump, Vice President Mike Pence, Senators John McCain, Jack Reed, Dianne Feinstein, numerous members of Congress, and various corporations. The complaint began by alleging: "This is a case of human rights abuses and atrocities that are so inconceivable, unimaginable, narrow-minded, and semioccasional to the general public, the perpetrators carry out their crimes surreptitiously in plain view." Christiana claimed he was being "targeted and abused on a prodigious scale," and alleged "[t]he United States and its Agencies, Corporations, Officers, Employees, and Agents are shocking Plaintiff's penis and testicles with excruciatingly pain. ISIS does not do that[]" and that the defendants were "coercing Plaintiff's mother and family to abuse Plaintiff and be involved in sex abuse to Plaintiff"

and "are shocking Plaintiff's eyes every day for their pleasure or monetary gain." The complaint alleged the defendants had engaged in a conspiracy to torture Christiana. Pursuant to a motion, the federal court dismissed the entire action, finding a lack of subject matter jurisdiction because Christiana's allegations were "inherently implausible" and "'obviously without merit.'"

Interactions with the City

On March 7, 2016, Christiana sent an e-mail to dozens of individuals and agencies, including members of the state assembly, City officials, the City's police department, as well as Orange County and Huntington Beach officials. The e-mail was addressed, although not sent to, all FCC commissioners, all federal, state, county, and city agencies and employees, all 100 US Senators and 435 members of Congress, the governors of all 50 states and "all personnel under such governors," as well as "all Foreign Governments and all Officials under such governments." Purportedly sent pursuant to Civil Code section 1708.7, the e-mail demanded that "all parties **cease and abate your pattern of conduct of stalking,** tracking, following, or any electronic or otherwise means knowing my whereabouts, thoughts, or violating my privacy in any manner." He also addressed the e-mail to "the media" (although there is no indication it was sent to any particular media outlet) with the following: "This is to advise the media and world that we have begun the process of accountability for perverts violating my privacy, stalking, committing intentional infliction of emotional distress, battery, and a host of other torts and crimes to me, my family, and society, in addition to the conspiracy(s) of all those torts and crimes."

In November 2017, Christiana appeared at a city council meeting, where the following minutes were taken of his public comment: "John Christiana said he was a victim of targeted abuse, harassment and organized crime and he would like everyone

involved in prison. He held up a chart of his action plan which he said was on [a well-known social media site]."

The Complaint's Relevant Allegations

Christiana filed his initial complaint in February 2018 and a first amended complaint (the complaint) in March. Christiana's complaint is replete with matter unnecessary to decide this appeal. The complaint repeatedly states that Christiana has been targeted by the federal government, and is a victim "of an excessive amount of crimes" and other abuses, including burglaries, hit and runs, vandalism, assault and battery, and planting of drugs.

As far as we can determine, the following allegations are pertinent here. Three weeks after Christiana sent the City and others his March 7, 2016 e-mail, Farris and William Crittenden, an employee of the Orange County Health Care Agency, knocked on Christiana's door and asked to come into his home, which Christiana permitted. They spoke for about 40 minutes. Christiana alleged this was part of a plan, and they continued to contact him throughout 2016 without cause.

The complaint alleged that on June 6, Christiana sent another e-mail to the City and county about "stalking, harassment, and crimes committed to Plaintiff," but a copy of that letter does not appear to be in the record.

On June 13, Christiana alleged that Farris and Crittenden made another unannounced visit to his home. "This time Defendants were more aggressive to get Plaintiff to take mind-altering psychotropic drugs and Defendant Jason Farris made Plaintiff agree watch a TED talk video on mental illness," a link to which Farris allegedly later sent to Christiana via the Internet. The complaint does not specify how Farris "made" Christiana view this video. According to Christiana, Farris and Crittenden tried to convince both him and their employers that he had a mental illness, and repeatedly tried to convince him to take psychotropic drugs.

The complaint next alleged that in February 12, 2017, he found "what appeared to be crystal methamphetamine" on a computer desk in his home. He did not call the police, nor did he allege how he verified the nature of the alleged substance.

On February 14, Christiana alleged, defendants knocked on his door "and then put what appears to obviously be a key into the key cylinders. Plaintiff has an audio recording of the entire incident where the key sound sliding into the cylinders can be heard. The reason Plaintiff has this audio recording is because not only was there repeated attempted burglaries to Plaintiff home that the . . . police were not investigating, but also the front door key cylinders seemed be to tampered with on many occasions so Plaintiff added this security measure by always having an audio recorder on by front door when he was not home." Christiana alleged that an unnamed neighbor caught defendants attempting to put a key in the door, and Farris was thereby "forced to leave a note on the door" that he had stopped by.

Christiana alleged this alleged interference with his lock was a trespass to chattels and characterized it as an "attempted burglary." He alleged he reported this to the police along with the alleged planting of the substance on the 12th – which the responding police officer said "could be a felony drug or it could be crumbs." There is no indication that whatever substance Christiana allegedly found was ever conclusively identified.

On the same day, Christiana alleged, he went to the police station to speak to Farris's supervisor. Farris came out to meet him instead, and Christiana told him to stop stalking him.

The complaint alleged that in late February, Farris and/or Crittenden called his mother to arrange a visit in Huntington Beach, apparently at his mother's home. They, along with two Huntington Beach police officers, discussed Christiana with his mother and allegedly told her that he had "a mental illness and could be a danger to society."

Farris again knocked on Christiana's door around May 30. On December 21, Farris called Christiana, who told Farris he no longer lived in Laguna Beach. Farris asked for his new address, and Christiana refused.

Based on these facts, Christiana alleged five causes of action – trespass to chattels, stalking, intimidation and tampering of victim or witness, intentional infliction of emotional distress, and negligence. Farris and the City filed a demurrer arguing that both defendants were statutorily immune from liability. Defendants also filed a request for judicial notice, which included documents related to Christiana's prior criminal history, the 2017 federal complaint and the subsequent order dismissing it, and the November 2017 city council minutes.

After briefing and oral argument, the court granted the request for judicial notice and sustained the demurrer without leave to amend, finding Christiana's claims against defendants were barred by sections 821.6 and 815.2.

Christiana now appeals. In his opening brief, Christiana states "this appeal boils down to only the [trespass to chattels claim]" but also argues that if we reverse, we must also reverse on the causes of action for intentional infliction of emotional distress and negligence.

II

DISCUSSION

Christiana's Briefs

We begin with the presumption that an order of the trial court is presumed correct and reversible error must be affirmatively shown by an adequate record. (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

Christiana fails to cite to the record on appeal in either of his briefs. This is entirely improper. "Rule [8.204] of the California Rules of Court provides in relevant

part that all appellate briefs *must* 'support any reference to a matter in the record by a citation to the record.' (Cal. Rules of Court, rule [8.204](a)(1)(C).)" (*Nwosu v. Uba* (2004)122 Cal.App.4th 1229, 1246 (*Nwosu*).) "The appellate court is not required to search the record on its own seeking error." (*Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768.) His self-represented status does not relieve him of this responsibility. (*Nwosu, supra*, 122 Cal.App.4th at pp. 1246-1247.)

Christiana's failure to provide record citations constitutes grounds to deem all of his arguments waived. If "'a party fails to support an argument with the necessary citations to the record, . . . the argument [will be] deemed to have been waived.'" (*Nwosu, supra*, 122 Cal.App.4th at p. 1246.)

In the interests of justice, we will address Christiana's contentions on the merits. To the extent, however, that he states facts in his briefs that we are unable to readily locate in the record, particularly his lengthy complaint, we disregard those facts.

Standard of Review

We review an order sustaining a demurrer de novo. (*Intengan v. BAC Home Loans Servicing LP* (2013) 214 Cal.App.4th 1047, 1052.) "In reviewing the sufficiency of a complaint against a general demurrer, we are guided by long-settled rules. We treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. We also consider matters which may be judicially noticed." (*McBride v. Boughton* (2004) 123 Cal.App.4th 379, 384-385.) "In order to prevail on appeal from an order sustaining a demurrer, the appellant must affirmatively demonstrate error. Specifically, the appellant must show that the facts pleaded are sufficient to establish every element of a cause of action and overcome all legal grounds on which the trial court sustained the demurrer. [Citation.] We will affirm the ruling if there is any ground on which the demurrer could have been properly

sustained." (*Intengan v. BAC Home Loans Servicing LP*, *supra*, 214 Cal.App.4th at p. 1052.)

"If a complaint does not state a cause of action, but there is a reasonable possibility that the defect can be cured by amendment, leave to amend must be granted." (*Quelimane Co. v. Steward Title Guaranty Co.*, *supra*, 19 Cal.4th at p. 39.) In reviewing the trial court's denial of the plaintiff's request for leave to amend, we apply the more deferential abuse of discretion standard. (*Canton Poultry & Deli, Inc. v. Stockwell, Harris, Widom & Woolverton* (2003) 109 Cal.App.4th 1219, 1226.)

Relevant Statutory Framework

In California, the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5000 et seq.; the Act) governs the involuntary commitment of those with mental health disorders. Welfare and Institutions Code section 5150 allows law enforcement officers, among others, to bring someone to an appropriate facility for assessment, evaluation, and treatment for up to 72 hours where there is "'probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled.'" (*Jacobs v. Grossmont Hospital* (2003) 108 Cal.App.4th 69, 74.)

Considerations of whether a person is subject to the Act go beyond the danger of imminent harm. (Welf. & Inst. Code, § 5150, subd. (b).) Persons authorized to make the determination about probable cause, which expressly includes law enforcement personnel, may "consider available relevant information about the historical course of the person's mental disorder." (Welf. & Inst. Code, § 5150.05, subd. (a).)

In addition to the Act, the government employee immunity statutes set forth the relevant statutory context for this case. Section 821.6 states: "A public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, even if he acts maliciously and without

probable cause." Section 815.2, subdivision (b), permits public entities such as the City to use the same defenses available to public employees.

"California courts construe section 821.6 broadly in furtherance of its purpose to protect public employees in the performance of their prosecutorial duties from the threat of harassment through civil suits." (*Gillan v. City of San Marino* (2007) 147 Cal.App.4th 1033, 1048.) "[S]ection 821.6 immunizes not only the act of filing or prosecuting a judicial or administrative complaint, but also extends to actions taken in preparation for such formal proceedings." (*Ibid.*) Immunity extends to allegations of intentional tortious conduct, unless the statute states otherwise. (*Richardson-Tunnell v. Schools Ins. Program for Employees (SIPE)* (2007) 157 Cal.App.4th 1056, 1061.)

The Acts Alleged are Subject to Immunity

Even when we examine only the strictly relevant portions of the complaint, it is replete with improperly pleaded "contentions, deductions, [and] conclusions of fact or law." (*McBride v. Boughton*, *supra*, 123 Cal.App.4th at pp. 384-385.) Defendants' intentions, the claims about the nature of the purportedly planted "substance," the claims about the alleged "attempted burglary" – all of these are improperly pleaded, and based on the insufficiency of the facts alone, the court could have sustained the demurrer.

But suppose we take these allegations at face value. Whether we view the allegations as pleading trespass to chattels, or consider them in the context of whether amendment is possible to allege trespass to property or conversion, the law is clear that section 821.6 immunity applies to all of these intentional torts as well as Christiana's claims for negligence and intentional infliction of emotional distress. (*Richardson-Tunnell v. Schools Ins. Program for Empoyees (SIPE)*, *supra*, 157 Cal.App.4th at p. 1061; see *Baughman v. State of California* (1995) 38 Cal.App.4th 182, 191 [§ 821.6 immunity applies to conversion].)

The context of the allegations is clear. Farris, probably as a result of Christiana's histrionic March 7, 2016 e-mail and other historical facts, was investigating whether to initiate a Welfare and Institutions Code section 5150 proceeding. Even based on Christiana's own version of the facts, all that is established is that Farris spoke to him several times over the course of a year, tried to convince him to take medication, and reached out to his family. This was well within the course and scope of Farris's role as a police officer, despite Christiana's claims to the contrary. Farris's belief was based on probable cause, including the March 7 e-mail and Christiana's history. Accordingly, sections 821.6 and 815.2, subdivision (b) apply, and both Farris and the City are immune from civil liability.

Amendment

Because Christiana's claims are barred as a matter of law, we find no reasonable probability that he could amend his complaint to state a valid cause of action. Therefore, the trial court did not err by declining to grant further leave to amend.

III

DISPOSITION

The judgment is affirmed. Defendants are entitled to their costs on appeal.

MOORE, ACTING P. J.

WE CONCUR:

ARONSON, J.

IKOLA, J.